

## REMARKS

Claims 10-15, 32-37, 53-56, and 77-79 remain pending in the instant application. All claims presently stand rejected. Claims 10, 11, 32, 33, 53, 77, and 78 are amended herein. Claims 1-9, 16-31, 38-52, 57-76, and 80-85 are hereby cancelled without prejudice. Entry of this amendment and reconsideration of the pending claims are respectfully requested.

### *Information Disclosure Statement*

Applicants submitted an Information Disclosure Statement and a Disclosure Citation Form PTO-1449 citing 14 references with the originally filed application on November June 15, 2001. A search of the PAIR database shows that this IDS was indeed received by the USPTO. Applicants kindly request that a copy of the 1449 form be returned with the Examiner's initials thereon indicating consideration of the cited art.

### *Statement of Common Ownership*

The present patent application and Patent No. 6,317,881 B1 to Shah-Nazaroff et al., were, at the time the invention of the present application was made, owned by or subject to an obligation of assignment to Intel Corporation of Santa Clara, California.

### *Claim Rejections – 35 U.S.C. § 102*

Claims 10, 12-15, 32, 34-37, 53, 55-56, 77, and 79 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Shah-Nazaroff et al. (US 6,317,881 B1).

Applicants note that Shah-Nazaroff was not published until it issued on November 13, 2001, which is after the filing date, June 15, 2001, of the instant application. Accordingly, the instant anticipation-type rejection, which was mistakenly asserted under §102(b), will for the purposes of the following discussion, be assumed to have been asserted under §102(e).

A claim is anticipated only if each and every element of the claim is found in a single reference. M.P.E.P § 2131 (citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628 (Fed. Cir. 1987)). “The identical invention must be shown in

as complete detail as is contained in the claim.” M.P.E.P. § 2131 (citing *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989)).

Amended independent claim 10 now recites, in pertinent parts,

receiving at a client, content descriptors, **which describe pieces of content available for future broadcast from a server;**

generating demand data at the client **indicating the relative desirability of the pieces of content described by the content descriptors;** and

sending demand data feedback from the client to the server ..., the demand data feedback to indicate the relative desirability of the pieces of content available for future broadcast.

Applicants respectfully submit that Shah-Nazaroff fails to disclose the above highlighted elements of claim 10. To be sure, Shah-Nazaroff discloses,

The present invention **collects viewer feedback to a broadcast** and generates a rating for the broadcast based at least in part on the viewer feedback and, in certain embodiments, characteristics of the viewer. The rating indicates how likely it is that **potential subsequent viewers** will be interested in the same broadcast or other broadcasts in a series.

*Shah-Nazaroff*, col. 2, lines 44-50 (see also, col. 3, lines 10-11). Furthermore, Shah-Nazaroff discloses,

First, in step 210, system controller 110 provides a feedback questionnaire to viewer 130. In one embodiment, questionnaire 130 is provided **at any time during or shortly after a broadcast** at the request of viewer 130.

*Shah-Nazaroff*, col 3, lines 23-26. Accordingly, Shah-Nazaroff discloses a technique for collecting viewer feedback during or after the broadcast of a program. In contrast, independent claim 10 recites, receiving content descriptors which describe pieces of content available for **future broadcast** and then sending demand data feedback to a server to indicate the relative desirability of the pieces of content available for future broadcast.

As such Shah-Nazaroff describes a technique of collecting viewer feedback about a broadcast during or after the broadcast to determine how likely it is that potential subsequent viewers will be interested in the same broadcast. In contrast, claim 10 is directed towards generating demand data feedback for **future** broadcasts. Embodiments

of the present invention enable a broadcaster to determine the order in which to broadcast available content and/or whether or not to even broadcast a particular piece of available content. Accordingly, Shah-Nazaroff teaches away from the present invention by describing a technique that broadcasts a program and afterwards collects viewer feedback about the program, where as, embodiments of the present invention collect feedback information about content available for **future** broadcast.

Consequently, Shah-Nazaroff fails to disclose each and every element of claim 10, as required under M.P.E.P. § 2131. Amended independent claims 32, 53, and 77 include similar novel elements as independent claim 10. Accordingly, Applicants request that the instant §102 rejections to independent claims 10, 32, 53, and 77 be withdrawn.

The dependent claims are novel over the prior art of record for at least the same reasons as discussed above in connection with their respective independent claims, in addition to adding further limitations of their own. Accordingly, Applicants respectfully request that the instant § 102 rejections for the dependent claims be withdrawn.

#### *Claim Rejections – 35 U.S.C. § 103*

Claims 11, 33, 54, and 78 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Shah-Nazaroff in view of Payton (US 5,790,935).

“Subject matter developed by another person, which qualifies as prior art only under one or more of subsection (e), (f), and (g) of section 102 of this title, **shall not preclude patentability under this section** where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” 35 U.S.C. § 103(c) (emphasis added).

Applicants kindly bring to the attention of the Examiner that both Shah-Nazaroff and the instant application were at the time the present invention was made, both owned by or under an obligation of assignment to Intel Corporation of Santa Clara, California. Therefore, pursuant to 35 U.S.C. § 103(c), Shah-Nazaroff may not be relied upon to preclude patentability under § 103(a). Accordingly, Applicants respectfully request that the instant § 103(a) rejections of claims 11, 33, 54, and 78 be withdrawn.

### CONCLUSION

In view of the foregoing amendments and remarks, Applicants believe the applicable rejections have been overcome and all claims remaining in the application are presently in condition for allowance. Accordingly, favorable consideration and a Notice of Allowance are earnestly solicited. The Examiner is invited to telephone the undersigned representative at (206) 292-8600 if the Examiner believes that an interview might be useful for any reason.

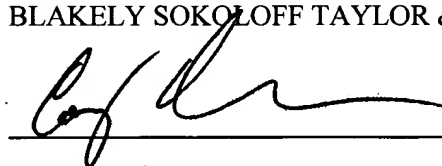
### CHARGE DEPOSIT ACCOUNT

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a). Any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666. Please credit any overpayment to the same deposit account.

Respectfully submitted,

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